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DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA-2015-0028]

National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Request for Comment

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Request for Comments (RFC)

SUMMARY: The Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) is incorporated in our regulations, approved by FHWA, and recognized as the national standard for traffic control devices used on all streets, highways, bikeways, and private roads open to public travel. This document asks for responses to a series of questions regarding the future direction of the MUTCD. Specific topic areas include target audience/intended user, content and organization, process for introducing new traffic control devices, and frequency of MUTCD editions.

DATES: Comments must be received on or before February 18, 2016.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue S.E., Washington, DC 20590, or fax comments to (202) 493-2251. Alternatively, comments may be submitted to the Federal eRulemaking portal at <http://www.regulations.gov>. All comments must include the docket number that appears in the heading of this document. All comments received will be available for

examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). Anyone may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78).

FOR FURTHER INFORMATION CONTACT: For questions about the program discussed herein, contact Mr. Kevin Sylvester, MUTCD Team Leader, FHWA Office of Transportation Operations, (202) 366-2161, or via email at Kevin.Sylvester@dot.gov. For legal questions, please contact Mr. William Winne, Office of the Chief Counsel, (202) 366-1397, or via e-mail at william.winne@dot.gov. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at: <http://www.regulations.gov>. The Web site is available 24 hours each day, 365 days each year. Please follow the instructions. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home

page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>. Anyone is able to search the electronic form of all comments in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

Purpose of this Notification

The FHWA is interested in planning for future editions of the MUTCD¹ that will reflect the growing number and application of traffic control devices, changes in technology not only for traffic control devices, but for viewing content in the MUTCD, and developing a structure for the MUTCD that is efficient and easy to use. The FHWA initiated the public comment process by publishing an RFC at 78 FR 2347 (Docket ID: FHWA-2012-0118) on January 11, 2013, that included two options for restructuring the MUTCD and several questions regarding content and public use of the MUTCD. The FHWA's response to the comments, issued June 17, 2013 at 78 FR 36132 (Docket ID: FHWA-2012-0118-0187), indicated that over one half of the commenters recommended postponing any action to restructure the manual pending results from the ongoing

¹ The 2009 edition of the MUTCD can be accessed at the following Internet Web site: <http://mutcd.fhwa.dot.gov/>.

National Cooperative Highway Research Program (NCHRP) strategic planning effort.²

That effort is now complete.

The purpose of this notice is to solicit comments from users of the MUTCD about the direction of future editions of the MUTCD. This notice includes a set of specific questions for which FHWA requests comments. Comments and input may be offered on any part of this notification.

Background

The MUTCD is incorporated by reference within Federal regulations at 23 CFR part 655, approved by FHWA, and recognized as the national standard for traffic control devices used on all public roads. The MUTCD was incorporated by reference into the Code of Federal Regulations beginning with the publication of the 1971 edition. There have been 10 editions of the MUTCD, beginning with the first edition in 1935. The current MUTCD is the 2009 Edition, incorporating Revisions 1 and 2, dated May 2012 and is available to the public at http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm.

Over the last several years, the transportation community has expressed concern over several issues related to the MUTCD: 1) size, 2) complexity in finding information, 3) amount/type of information in the MUTCD, and 4) timeframe required for new traffic control devices or applications to be incorporated. To begin to address these issues, FHWA published an RFC at 78 FR 2347 (Docket ID: FHWA-2012-0118) on January 11, 2013, requesting comment on a potential restructuring of the MUTCD into two

² NCHRP 20-07/Task 323, Developing a Long-Range Strategic Plan for the MUTCD, can be accessed at the following Internet Web site: <http://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=3203>.

documents: the MUTCD and an Applications Supplement (herein referred to as “Restructuring RFC”). The FHWA’s response to the comments, issued June 17, 2013, at 78 FR 36132 (Docket ID: FHWA-2012-0118-0187), indicated that given the lack of support from the MUTCD user community, FHWA would not proceed with restructuring the MUTCD into two documents. As discussed in the response to comments, more than 90 percent of the docket letters were either against splitting the MUTCD into two separate documents (approximately 56 percent of responses), or recommended postponing any action to split the manual pending results from the ongoing NCHRP strategic planning effort (approximately 34 percent of responses), which was expected to be available in January 2014. The strategic planning effort was to address many issues that would impact future MUTCD content and structure, including consideration of an MUTCD that would consist of more than one volume. In addition to requesting that FHWA wait for the results of the NCHRP strategic planning effort, many State and local agencies, associations, and consultants suggested that if a decision were to be made to restructure the MUTCD in any significant way, it would be critical for FHWA to partner with stakeholders to develop content for a restructured MUTCD.

The NCHRP task to which the commenters were referring, NCHRP 20-07/Task 323, is now complete. The objective of the task was to develop a long-range Vision and Strategic Plan for the MUTCD. The plan was delivered to the American Association of State Highway and Transportation Officials’ Highway Subcommittee on Traffic Engineering, which approved it by ballot, and then to the National Committee on Uniform Traffic Control Devices (NCUTCD) where that organization adopted the plan

(herein referred to as the Vision and Strategic Plan) at its January 2014 meeting.³ The Vision and Strategic Plan contains a discussion of opinions, challenges, needs and questions followed by a presentation of a vision for the MUTCD of the mid-2030s. To achieve that vision, the document includes a strategic plan for transitioning from the current edition to future editions through a series of incremental changes. With the NCHRP effort now complete, and in response to comments from the Restructuring RFC, FHWA believes it is now appropriate for a wider audience of MUTCD users to provide comments to FHWA on the direction of future editions of the MUTCD. It is important to note that FHWA is not seeking comments on the Vision and Strategic Plan document itself. Nor is FHWA seeking comment on any specific proposals for change.

Concurrent with this effort, FHWA is preparing a Notice of Proposed Amendments (NPA) for the next edition of the MUTCD. The publication date of the NPA is not yet known. Depending on the nature and extent of comments submitted for this RFC, FHWA may incorporate some of the suggestions in the next edition of the MUTCD. More importantly, FHWA is looking to begin planning for MUTCD editions further into the future with the comments submitted for this RFC.

As discussed above, the public may submit comments online through the Federal eRulemaking portal at: <http://www.regulations.gov>. In an effort to streamline the process for organizing and reviewing docket comments, the public is invited to submit comments in a spreadsheet that has been specifically developed for this notice. The

³ The NCUTCD's January 9, 2014, 20-Year Vision and Strategic Plan for the Manual on Uniform Traffic Control Devices can be viewed at the following Internet Web Site: <http://www.ncutcd.org/doc/MUTCD-20%20Year%20Vision%20NCUTCD%20Appvd%201-9-14%20FINAL.pdf>.

spreadsheet is available for review and download on <http://www.regulations.gov> under the docket number listed in the heading of this document. Commenters who wish to use the spreadsheet for their comments are encouraged to download and fill in the spreadsheet, then upload the completed file as indicated in comment instructions. Alternatively, commenters may submit their comments in the comment box and/or via uploading a different file.

Topic Area 1: Target Audience/Intended User

Over the years, the MUTCD has expanded in size, due in part to the belief that the MUTCD needs to contain information that is appropriate for all its users. The size and complexity of the MUTCD have significantly increased primarily because of an expansion of the number of devices included in the MUTCD and the desire to provide more specifics in conveying the intent of the language in order to avoid uncertainty. The first edition of the MUTCD, published in 1935, had 166 pages, whereas the current MUTCD contains 820 pages of technical provisions. As discussed in the Restructuring RFC in 2012, FHWA is interested in examining ways to simplify and streamline the MUTCD in a manner that is most user-friendly, while maintaining the appropriate amount of information.

The MUTCD is used by a wide audience, from State, local, and consulting traffic engineers, to traffic control device technicians, and to some extent, the public. The Vision and Strategic Plan suggests that the size and the complexity of the MUTCD may be reduced by targeting the MUTCD to a more specific audience or organizing it to provide information for different types of users. While FHWA understands that the

MUTCD has gained a wide audience, writing or organizing the MUTCD accordingly may be cumbersome and may not have the intended result of simplifying the MUTCD. The MUTCD is currently designed as an engineering reference manual.

Topic Area 1 Questions:

1A. Should MUTCD content continue to be written with a traffic engineer as the intended audience?

Topic Area 2: Simplifying and Reorganizing the MUTCD

As indicated above, FHWA previously issued the Restructuring RFC to identify potential options for simplifying the MUTCD. Comments were not in favor of splitting the MUTCD into two separate documents and many suggested waiting on the results of the Vision and Strategic Plan before determining whether or not the MUTCD should be restructured in a significant way.

In addition to simplifying, FHWA is exploring several of the reorganizing suggestions received from the Restructuring RFC. The current structure of the MUTCD is based on the type of device and the specialized application of devices. The 2009 edition includes Parts 1 through 4 for types of devices and Parts 5 through 9 for specialized applications of devices. This has been the basic structure of the MUTCD since its inception. In the 2000 edition, FHWA added the current headings of content (Standard, Guidance, Option, and Support paragraphs). The headings provide a clear level of mandate associated with specific content. However, this division by level of mandate can create challenges in providing text that reads well and flows together.

In order to provide greater flexibility in the MUTCD, the Vision and Strategic Plan recommends an additional level of mandate that would include two versions of Standard statements rather than one. Both types would be requirements, but one level would relate to uniformity while the other would relate to consistency. The uniformity Standard would require the same action in every case and would not allow for deviation based on site conditions. The consistency Standard would require the same action in every case unless a deviation was warranted to accommodate local conditions. The meanings of Guidance (recommended) and Option (permissible) provisions would remain unchanged. The FHWA believes that this concept is not viable for several reasons. First, it would tend to make the MUTCD more complex rather than less complex. Second, because both conditions would be requirements, it is not likely that any legal distinction could be made between the two. The provisions of the current MUTCD do not preclude the application of engineering considerations.

Coordination within the MUTCD regarding the use of related devices at a single location is often limited. An MUTCD user that is trying to make decisions regarding aspects of traffic control devices used at a specific location might need to reference several different portions of the MUTCD to determine the optimal combination of devices and device features. For example, to review all provisions related to crosswalks, a reader could potentially need to consider Parts 2, 3, 4, 6, 7, 8, and 9, depending on the extent to which the design involves the basic devices of signs, markings, and signals; and specialized applications such as temporary traffic control, school zones, rail grade crossings, and shared-use paths. Cross referencing within the MUTCD is usually

provided as appropriate to direct users to related provisions in other Sections or Parts of the MUTCD.

The tendency for future editions of the MUTCD is likely to expand the amount of content, potentially exacerbating the difficulty in using and finding information in the MUTCD. The FHWA is seeking comment to assess options for structuring the MUTCD to make it easier to use. The following are potential options for simplifying and reorganizing the MUTCD:

- a. Maintain the current structure and format of the MUTCD.
- b. Reorganize the MUTCD content. Potential reorganization structures include:
 - i. Traffic control devices by application. Parts 2, 3, and 4 in the current MUTCD would be combined to address applications such as urban intersections, rural highways, and collector streets. These applications would address the use of signs, markings, and signals within that context. Parts 5-9 of the current MUTCD currently use this approach. Such a structure would provide most of the content needed for a given application in a consolidated location within the MUTCD.
 - ii. By level of mandate (e.g., Standard and Guidance). Separating Standard, Guidance, Option, and Support provisions within each section may help MUTCD users find information more easily. For example, more experienced MUTCD users may only need to review specific requirements and would want to review only the Standard and Guidance provisions.

- iii. By MUTCD user (e.g., field personnel and engineers). Field personnel typically focus on the field location, installation, and inspection of traffic control devices. Engineers and technicians typically focus on the overall design, operations, and context of a traffic control device in relation to the transportation facilities and other traffic control devices. Consolidating provisions related to user types may simplify the MUTCD for those individuals.
- c. Relocate some of the content from the MUTCD into a companion document that has a similar structure as the MUTCD. The companion document would not contain requirements and could be revised without the rulemaking process. This restructuring would take place in a future edition, not the next edition.
 - i. The restructured MUTCD could include traffic control device standards that do not change such as the meaning, appearance, and other key standards.
 - ii. The companion document could include traffic control device guidelines that relate to selection, location, operation, and maintenance of devices. The companion document would need to be developed through a consensus-building process that involves appropriate stakeholders with expertise in the use of traffic control devices. The companion document could be revised more frequently than the MUTCD, because it would not be subject to rulemaking.

Topic Area 2 Questions:

2A. In future editions, should FHWA strive to reduce the amount of explanatory language included in the MUTCD?

2B. If so, what types of explanatory language should be removed from the MUTCD?

2C. If explanatory/supplementary information is removed, should it be retained in a separate document?

2D. What organizational structure should be considered for future MUTCDs?

Potential alternatives include:

- a. Current structure
- b. Application information (e.g., urban intersections, rural highways, and collector streets).
- c. By type of information (design and applications, installation, maintenance).
- d. Other.

2E. If a different format is not appropriate, what potential alternatives/tools would help users more easily find information?

2F. As we move toward more electronic use of the MUTCD through computers, tablets, and handheld devices, what additional electronic formats or tools would be useful?

Topic Area 3: MUTCD Edition Frequency

There have been 10 editions of the MUTCD (1935, 1942, 1948, 1961, 1971, 1978, 1988, 2000, 2003, and 2009). Timing of revisions of individual editions has varied, with most editions having a limited number of revisions between editions.

Changes to the MUTCD are made through the rulemaking process because the manual is regulatory in nature. Major changes to the MUTCD are incorporated and added through the publication of new editions of the manual. Occasionally, there is a need to initiate special rulemakings between editions of the MUTCD to incorporate important content without waiting for the next edition of the MUTCD. These are called “Revisions” and are incorporated into the official MUTCD on FHWA’s MUTCD Web site. In between editions or revisions of the MUTCD, new traffic control devices or applications can be approved for use through the official experimentation and interim approval processes, as described in Section 1A.10 of the MUTCD.⁴ Information regarding these experimentations and interim approvals is also posted on FHWA’s MUTCD Web site.

Developing technical content for inclusion in the MUTCD is a deliberative process. Material associated with new traffic control devices is based on laboratory and/or in-service research evaluations that consider the human factors and performance aspects of the device, which can take several years. The results are then used to develop technical provisions related to that device that can then be considered for a rulemaking activity to amend the MUTCD. The rulemaking process involves publishing a proposed revision for public comment, analyzing the public comments submitted to the docket, and then publishing a final rule that addresses the public comments. For a new edition of the MUTCD, this process typically takes approximately 2 years from the publication of the proposed rulemaking document to the final rule. After the final rule, States have up to 2

⁴ Section 1A.10 of the MUTCD can be viewed at the following Internet Web link:
<http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1part1.pdf>.

years to adopt the new MUTCD or their State equivalent. Given this timeline, it would be impractical to publish new editions of the MUTCD with significant new content at intervals less frequent than 6 years. The next edition of the MUTCD is currently targeted for publication in late 2018, representing 9 years between new editions.⁵

Currently, 18 States adopt the national MUTCD as their standard, without any supplement. Ten States develop their own MUTCD based on the national MUTCD. Twenty-two States and the District of Columbia and Puerto Rico develop supplements to the national MUTCD.

Developing supplements to the national MUTCD and developing State-specific MUTCDs is likely to be costly to the States and introduces a potential for conflicts with the national MUTCD. State agency resources are already provided to review and comment on national MUTCD rulemaking and many State agencies support their staff member participation in the NCUTCD meetings and activities. As a result, FHWA would like to better understand why States develop their own MUTCDs or supplements. The FHWA believes that a better understanding of why States develop their own MUTCDs could better inform the development of future editions of the national MUTCD. It should be noted that FHWA is not discouraging States from developing their own MUTCDs or supplements.

The FHWA is interested in comments related to the timing of new editions of the MUTCD and intermediate revisions of the MUTCD between editions, as well as the information about the development of State MUTCDs and supplements.

⁵ Revisions 1 and 2 to the 2009 MUTCD were published in May 2012.

3A. If the minimum practical interval between editions is 6 to 8 years, should FHWA promulgate rulemakings to issue one or more revisions that are focused on individual traffic control devices between new editions of the MUTCD?

3B. What about the national MUTCD or State law makes it necessary for some States to develop their own MUTCDs or supplements?

3C. Is there anything in the national MUTCD that could be changed to reduce the burden for States to review, revise, prepare, and adopt their own State MUTCD or supplement?

Authority: 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and, 49 CFR 1.85.

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Gregory G. Nadeau,
Administrator
Federal Highway Administration

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